

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

<p>J.M., individually and on behalf of N.M., a minor,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>UNITED HEALTHCARE INSURANCE COMPANY, UNITED BEHAVIORAL HEALTH, TRINET HR III, INC., and the TRINET HR III, INC. WELFARE BENEFIT PLAN,</p> <p style="text-align: center;">Defendants.</p>	<p>SCHEDULING ORDER</p> <p>Case No. 2:23-cv-447-RJS-DBP</p> <p>District Judge Robert J. Shelby</p> <p>Magistrate Judge Dustin B. Pead</p>
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Pursuant to Fed. R. Civ. P. 16(b), the Court received the Attorney Planning Meeting Report filed by counsel (ECF No. 18-1.) Upon review, Plaintiff's Stipulated Motion for Scheduling Order is GRANTED (ECF No. 18) and the following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

****ALL TIMES 11:59 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS	DATE
Nature of claims and any affirmative defenses:	
a. Date the Rule 26(f)(1) conference was held?	00/00/00
b. Have the parties submitted the Attorney Planning Meeting Report?	00/00/00
c. Deadline for 26(a)(1) initial disclosures and pre-litigation appeal record?	1/18/24

2. DISCOVERY LIMITATIONS**NUMBER**

As to the first cause of action, recovery of ERISA benefits under 29 U.S.C. § 1132(a)(1)(B), in the event there is a dispute as to the completeness of the pre-litigation appeal record, a part may bring a motion with the court on or before **3/28/24**.

As to the second cause of action, alleging violation of MHPAEA under ERISA 29 U.S.C. § 1132(a)(3), Defendants dispute that any discovery is necessary, and though they have agreed to enter into this order for the purpose of putting reasonable limits on discovery, they do not, by so doing, consent to any particular discovery and they expressly reserve any and all objections to the scope or necessity of any discovery that may actually be served.

As to the third cause of action for statutory penalties under 29 U.S.C. § 1132(a)(1)(A), Plaintiffs request the full scope of discovery as permitted by the Federal Rules of Civil Procedure. Defendants believe discovery related to this cause of action should be limited to discrete requests for documents and interrogatories and that oral discovery is unnecessary. Though Defendants have agreed to enter into this order for the purpose of putting reasonable limits on discovery, they do not, be doing so, consent to any particular discovery and they expressly reserve any and all objections to the scope and necessity of any discovery that may actually be served.

- a. Maximum number of depositions by Plaintiff(s):
- b. Maximum number of depositions by Defendant(s):
- c. Maximum number of hours for each deposition (unless extended by agreement of parties):
- d. Maximum interrogatories by any party to any party: 25
- e. Maximum requests for admissions by any party to any party: 25
- f. Maximum requests for production by any party to any party: 25

- g. The parties shall handle discovery of electronically stored information as follows:

Information shall be provided in PDF format.

- h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: as allowed under the Rules of Civil Procedure.

- i. Last day to serve written discovery: **4/25/24**

- j. Close of fact discovery: **6/28/24**

- k. (*optional*) Final date for supplementation of disclosures and discovery under Rule 26(e): 00/00/00

3. AMENDMENT OF PLEADINGS/ADDING PARTIES¹ DATE

- a. Last day to file Motion to Amend Pleadings: **5/23/24**

- b. Last day to file Motion to Add Parties: **5/23/24**

4. RULE 26(a)(2) EXPERT DISCLOSURES & REPORTS DATE

Disclosures (subject and identity of experts)

- a. Part(ies) bearing burden of proof: **5/30/24**

- b. Counter disclosures: **6/27/24**

Reports

- a. Part(ies) bearing burden of proof: **7/4/24**

- b. Counter reports: **8/1/24**

5. OTHER DEADLINES DATE

- a. Last day for expert discovery: **8/29/24**

- b. Deadline for filing dispositive or potentially dispositive motions: **10/24/24**

- c. Deadline for filing partial or complete motions to exclude expert testimony: 00/00/00

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

6. SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION **DATE**

- a. Likely to request referral to a Magistrate Judge for settlement conference: No
- b. Likely to request referral to court-annexed arbitration: No
- c. Likely to request referral to court-annexed mediation: No
- d. The parties will complete private mediation/arbitration by: 00/00/00
- e. Evaluate case for settlement/ADR on: **6/28/24**
- f. Settlement probability: unknown

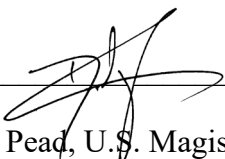
*Specify # of days for Bench or Jury trial as appropriate.
The Court will complete the shaded areas.*

7. TRIAL AND PREPARATION FOR TRIAL **TIME** **DATE**

- a. The parties agree that because this case is governed by ERISA, the parties will submit cross-motions for summary judgment (regardless of whether any discovery is or is not allowed), which will stand in the place of trial on Plaintiff's first cause of action (for recovery of medical benefits), and which they expect will also resolve Plaintiff's second cause of action (for alleged violation of the Parity Act) and third cause of action (for statutory penalties). To the extent the Court's ruling on those cross-motions does not fully resolve the second cause of action and a trial is necessary, either party may (within 7 days of the Court's decision on summary judgment) request a status conference to discuss pre-trial scheduling.

Signed November 9, 2023.

BY THE COURT:



Dustin B. Pead, U.S. Magistrate Judge